



General Assembly

**Bill No. 31**

February Session, 2008

LCO No. 500

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Referred to Committee on Government Administration and Elections

Introduced by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

REP. CAFERO, 142<sup>nd</sup> Dist.

**AN ACT CONCERNING FALSE CLAIMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008*) (a) For purposes of this  
2 section:

3 (1) "Knowing" and "knowingly" means that a person, with respect to  
4 information:

5 (A) Has actual knowledge of the information;

6 (B) Acts in deliberate ignorance of the truth or falsity of the  
7 information; or

8 (C) Acts in reckless disregard of the truth or falsity of the  
9 information; and

10 (2) "Claim" means any request or demand, whether under a contract  
11 or otherwise, for money or property that is made by a contractor,

12 grantee or other recipient if the state provides any portion of the  
13 money or property which is requested or demanded, or if the state will  
14 reimburse such contractor, grantee or other recipient for any portion of  
15 the money or property which is requested or demanded.

16 (b) Any person who:

17 (1) Knowingly presents, or causes to be presented, to a public  
18 official or state employee a false or fraudulent claim for payment or  
19 approval;

20 (2) Knowingly makes, uses, or causes to be made or used, a false  
21 record or statement to secure the payment or approval by the state of a  
22 false or fraudulent claim;

23 (3) Conspires to defraud the state by securing the allowance or  
24 payment of a false or fraudulent claim;

25 (4) Has possession, custody or control of property or money used,  
26 or to be used, by the state and, intending to defraud the state or  
27 wilfully to conceal the property, delivers, or causes to be delivered,  
28 less property than the amount for which the person receives a  
29 certificate or receipt;

30 (5) With authority to make or deliver a document that certifies  
31 receipt of property used, or to be used, by the state and, intending to  
32 defraud the state, makes or delivers such receipt without knowing that  
33 the information on the receipt is true;

34 (6) Knowingly buys, or receives as a pledge of an obligation or debt,  
35 public property from a public official or state employee, who lawfully  
36 may not sell or pledge such property; or

37 (7) Knowingly makes, uses, or causes to be made or used, a false  
38 record or statement to conceal, avoid or decrease an obligation to pay  
39 or transmit money or property to the state, shall be liable to the state  
40 for a civil penalty of not less than five thousand dollars and not more

41 than ten thousand dollars, in addition to three times the amount of  
42 damages that the state sustains due to the act of that person, except  
43 that if the court finds that:

44 (A) The person committing the violation of this subsection  
45 furnished officials responsible for investigating false claims violations  
46 with all information known to such person about the violation within  
47 thirty days of the date on which the defendant first obtained the  
48 information;

49 (B) Such person fully cooperated with any state investigation of  
50 such violation; and

51 (C) At the time such person furnished the state with the information  
52 concerning the violation, no criminal prosecution, civil action or  
53 administrative action had commenced pursuant to the provisions of  
54 section 2, 3 or 6 of this act with respect to such violation, and the  
55 person did not have actual knowledge of the existence of an  
56 investigation into such violation.

57 (c) Upon finding a violation of this section, a court may assess not  
58 less than twice the amount of damages that the state sustains due to  
59 the actions of such person. Any person who violates this section shall  
60 also be liable to the state for the costs of any civil action brought by the  
61 state to recover any such penalty or damages.

62 (d) Any information furnished pursuant to subparagraphs (A) to  
63 (C), inclusive, of subsection (b) of this section shall be exempt from  
64 disclosure under section 1-210 of the general statutes.

65 Sec. 2. (NEW) (*Effective July 1, 2008*) (a) The Attorney General shall  
66 investigate any violation of section 1 of this act. If the Attorney General  
67 determines that a person has violated or is violating section 1 of this  
68 act, the Attorney General may bring a civil action under this section  
69 against such person.

70 (b) (1) Any person may bring a civil action for a violation of section

71 1 of this act on behalf of such person and the state. A person bringing  
72 such action shall be referred to as a qui tam plaintiff. Such action shall  
73 be brought in the name of the state and may only be dismissed if the  
74 Attorney General gives written consent to the dismissal and the  
75 reasons for consenting.

76 (2) A copy of such complaint along with a written disclosure of  
77 substantially all material evidence and information such person  
78 possesses shall be served on the Chief State's Attorney and the  
79 Attorney General. Such complaint shall remain under seal for at least  
80 sixty days and shall not be served on the defendant until the court so  
81 orders. The state may elect to intervene and proceed with the action  
82 within sixty days after it receives both the complaint and the material  
83 evidence and information, provided no such action shall be  
84 commenced until the Chief State's Attorney has determined whether to  
85 proceed with a criminal prosecution pursuant to section 6 of this act.

86 (3) The state may, for good cause shown, move the court for an  
87 extension of the time during which the complaint remains under seal  
88 under subdivision (2) of this subsection. Any such motion shall be  
89 supported by affidavits or other submissions that shall become part of  
90 the sealed file. The pendency of a review by the Chief State's Attorney  
91 to determine whether to prosecute under section 6 of this act shall  
92 constitute good cause for the purposes of this subdivision. The  
93 defendant shall not be required to respond to any complaint filed  
94 under this section until twenty days after the complaint is served upon  
95 the defendant.

96 (4) Before the expiration of the sixty-day period described in  
97 subdivision (2) of this subsection, or any extension obtained pursuant  
98 to subdivision (3) of this subsection, the state shall either:

99 (A) Proceed with the action, in which case the action shall be  
100 prosecuted by the state; or

101 (B) Notify the court that it declines to take over such action, in

102 which case the person bringing such action shall have the right to  
103 proceed with the action.

104 (5) Whenever any person brings an action pursuant to this  
105 subsection, no other person may intervene or bring a related action  
106 based on the facts underlying such pending action.

107 (c) (1) In the event the state proceeds with such action, the state shall  
108 have the primary responsibility for prosecuting such action and shall  
109 not be bound by any act of the person who brought such action. Such  
110 person shall have the right to continue as a party to the action, subject  
111 to the limitations set forth in subdivision (2) of this subsection.

112 (2) (A) The state may move for dismissal of such action  
113 notwithstanding any objection of the person initiating the action,  
114 provided such person has been notified by the state of the filing of the  
115 motion.

116 (B) The state may settle any such action with the defendant  
117 notwithstanding any objection of the person initiating the action if the  
118 court determines, after a hearing, that the proposed settlement is fair,  
119 adequate and reasonable under all the circumstances. Upon a showing  
120 of good cause, such hearing may be closed to the public.

121 (C) Upon a showing by the state that unrestricted participation  
122 during the course of the litigation by the person initiating the action  
123 would interfere with or unduly delay the state's prosecution of the  
124 case, or would be repetitious, irrelevant or for purposes of harassment,  
125 the court may, in its discretion, impose limitations on the person's  
126 participation, such as: (i) Limiting the number of witnesses the person  
127 may call; (ii) limiting the length of the testimony of such witnesses; (iii)  
128 limiting the person's cross-examination of witnesses; or (iv) otherwise  
129 limiting the participation by the person in the litigation.

130 (D) Upon a showing by the defendant that unrestricted participation  
131 during the course of the litigation by the person initiating the action

132 would be for purposes of harassment or would cause the defendant  
133 undue burden or unnecessary expense, the court may limit the  
134 participation by the person in the litigation.

135 (3) If the state elects not to proceed with the action, the person who  
136 initiated the action shall have the right to conduct the action. If the  
137 state so requests, it shall be served with copies of all pleadings filed in  
138 the action and shall be supplied with copies of all deposition  
139 transcripts at the state's expense. When a person proceeds with the  
140 action, the court, without limiting the status and rights of the person  
141 initiating the action, may nevertheless permit the state to intervene at a  
142 later date upon a showing of good cause.

143 (4) Whether or not the state proceeds with the action, upon a  
144 showing by the state that undertaking discovery in such action would  
145 interfere with the state's investigation or prosecution of a criminal or  
146 civil matter arising out of the same facts, the court may stay such  
147 discovery for a period of not more than sixty days. Such a showing  
148 shall be conducted in camera. The court may extend the sixty-day  
149 period upon a further showing, in camera, that the state has pursued  
150 its criminal or civil investigation or proceedings with reasonable  
151 diligence and that any proposed discovery in the civil action will  
152 interfere with the ongoing criminal or civil investigation or  
153 proceedings.

154 (5) The state may elect to pursue any alternative remedy available to  
155 the state in order to address any violation of section 1 of this act,  
156 including any administrative proceeding to determine a civil penalty.  
157 Any finding of fact or conclusion of law made in such other  
158 proceeding that has become final shall be conclusive on all parties to  
159 any administrative proceeding brought pursuant to this subdivision.  
160 Such a finding or conclusion is final if it has been finally determined  
161 on appeal to the appropriate court of the state, if all time for filing such  
162 an appeal with respect to the finding or conclusion has expired, or if  
163 the finding or conclusion is not subject to judicial review.

164 (d) (1) If the state proceeds with an action brought by a person  
165 under subsection (b) of this section, such person shall, except as  
166 provided in subdivision (2) of this subsection, receive at least fifteen  
167 per cent but not more than twenty-five per cent of the proceeds of the  
168 action or settlement of the claim, depending upon the extent to which  
169 the person substantially contributed to the prosecution of the action.

170 (2) If the court finds the action to be based primarily on disclosures  
171 of specific information other than information provided in a criminal,  
172 civil or administrative hearing, a legislative, administrative or  
173 Auditors of Public Accounts report, hearing, audit or investigation, or  
174 from the news media, the court may award such sums as it considers  
175 appropriate, but in not more than ten per cent of the damages  
176 recovered by such action, taking into account the significance of the  
177 information provided by such person and the role such person played  
178 in advancing the case to litigation.

179 (3) Any payment to a person under subdivision (1) or (2) of this  
180 subsection shall be made from the damages recovered in such action.  
181 Any such person shall also receive an amount for reasonable expenses  
182 which the court finds to have been necessarily incurred, plus  
183 reasonable attorneys' fees and costs. Any such expenses, fees and costs  
184 shall be awarded against the defendant.

185 (4) If the state does not proceed with an action under this section,  
186 the person bringing the action or settling the claim shall receive an  
187 amount that the court determines is reasonable for collecting the  
188 applicable civil penalty and damages. Such amount shall not be less  
189 than twenty-five per cent but not more than thirty per cent of the  
190 damages recovered by such action or settlement and shall be paid out  
191 of such damages. Such person shall also receive an amount for  
192 reasonable expenses that the court finds to have been necessarily  
193 incurred, plus reasonable attorneys' fees and costs. Any such expenses,  
194 fees and costs shall be awarded against the defendant.

195 (5) Whether or not the state proceeds with such action, if the court

196 finds that the action was brought by a person who planned and  
197 initiated the violation of section 1 of this act upon which the action was  
198 brought, the court may, to the extent the court considers appropriate,  
199 reduce the share of the proceeds of the action which the person would  
200 otherwise receive under subdivision (1) or (2) of this subsection, taking  
201 into account the role of that person in advancing the case to litigation  
202 and any relevant circumstances pertaining to the violation. If the  
203 person bringing the action is convicted of criminal conduct arising  
204 from his or her role in the violation of section 1 of this act, that person  
205 shall be dismissed from the civil action and shall not receive any share  
206 of the proceeds of the action. Such dismissal shall not prejudice the  
207 right of the state to proceed with such action.

208 (6) In the event the state does not proceed with such action and the  
209 person who brought such action proceeds with the action, the court  
210 may award to the defendant its reasonable attorneys' fees and  
211 expenses if the defendant prevails in the action and the court finds that  
212 the claim of such person was frivolous, vexatious or brought primarily  
213 for purposes of harassment.

214 (e) Any employee who is discharged, demoted, suspended,  
215 threatened, harassed or in any other manner discriminated against in  
216 the terms and conditions of employment by his or her employer  
217 because of lawful acts done by the employee on behalf of the employee  
218 or others in furtherance of an action under this section, including  
219 investigation for, initiation of, testimony for or assistance in an action  
220 filed or to be filed under this section, shall be entitled to all relief  
221 necessary to make the employee whole, including all of the rights and  
222 remedies provided by section 4-61dd of the general statutes, as  
223 amended by this act. Such relief shall include reinstatement with the  
224 same seniority status such employee would have had but for the  
225 discrimination, two times the amount of back pay, interest on the back  
226 pay and compensation for any special damages sustained as a result of  
227 the discrimination, including litigation costs and reasonable attorneys'  
228 fees. An employee may bring an action in the superior court for the

229 judicial district of Hartford for the relief provided in this subsection.

230 (f) There is established an account to be known as the "false claims  
231 act account" which shall be a separate dedicated nonlapsing account  
232 within the General Fund. Proceeds from the prosecution or settlement  
233 of an action under this section or section 6 of this act by a qui tam  
234 plaintiff, the Attorney General or the Chief State's Attorney shall,  
235 except as otherwise specified in this section, be deposited in the  
236 account. The funds deposited in such account shall be used by the  
237 Chief State's Attorney and the Attorney General for the investigation  
238 and prosecution of false claims in furtherance of this section and by  
239 state contracting agencies to pay any costs associated with the  
240 investigation and settlement of false claims. The Secretary of the Office  
241 of Policy and Management shall hold such account. Account proceeds  
242 in excess of one million dollars shall be deposited in the General Fund.  
243 Any remaining account balance that does not exceed one million  
244 dollars at the end of the fiscal year shall be carried forward in the  
245 account for the fiscal year next succeeding.

246 Sec. 3. (NEW) (*Effective July 1, 2008*) (a) A subpoena requiring the  
247 attendance of a witness at a trial or hearing conducted pursuant to  
248 section 2 or 6 of this act may be served at any place within the state.

249 (b) A civil action under section 2 of this act may not be brought:

250 (1) More than six years after the date on which the violation of  
251 section 1 of this act was committed, or

252 (2) more than three years after the date when facts material to the  
253 cause of action are known, or reasonably should have been known, by  
254 the official of the state who is charged with responsibility to act in such  
255 circumstances, but in no event more than ten years after the date on  
256 which such violation occurs.

257 (c) In any action brought under section 2 of this act, the state shall be  
258 required to prove all essential elements of the cause of action,

259 including damages, by a preponderance of the evidence.

260 (d) Notwithstanding any provision of the general statutes, a final  
261 judgment rendered in favor of the state in any criminal proceeding for  
262 fraud, false statements or a violation of section 6 of this act, whether  
263 upon a verdict after trial or upon a plea of guilty or nolo contendere,  
264 shall preclude the defendant from denying the essential elements of  
265 the offense in any action which involves the same transaction as in the  
266 criminal proceeding and which is brought under subsection (a) or (b)  
267 of section 2 of this act.

268 Sec. 4. (NEW) (*Effective July 1, 2008*) Any action brought pursuant to  
269 section 2 of this act may be brought in any judicial district in which the  
270 defendant or, in the case of multiple defendants, any one defendant  
271 can be found, resides, transacts business or in which any act proscribed  
272 by section 1 of this act occurred. A summons shall be issued by the  
273 appropriate Superior Court and served at any place within or outside  
274 the state.

275 Sec. 5. (NEW) (*Effective July 1, 2008*) (a) Whenever the Chief State's  
276 Attorney or the Attorney General has reason to believe that any person  
277 may be in possession, custody or control of any document, material or  
278 information relevant to a false claims investigation pursuant to this act,  
279 he may, before commencing a civil or criminal proceeding under this  
280 section, issue in writing and cause to be served upon such person, a  
281 subpoena requiring such person to: (1) Produce such document or  
282 material for inspection and copying, (2) answer in writing written  
283 interrogatories with respect to such document, material or information,  
284 (3) give oral testimony concerning such document, material or  
285 information, or (4) furnish any combination of such document,  
286 material, answers or testimony.

287 (b) (1) Each subpoena issued under subsection (a) of this section  
288 shall state the nature of the conduct constituting the alleged violation  
289 of law which is under investigation pursuant to this act and the  
290 applicable provision of law alleged to be violated.

291 (2) If such subpoena is for the production of one or more  
292 documents, it shall:

293 (A) Describe each class of documents to be produced with such  
294 definiteness and certainty as to permit such material to be clearly  
295 identified;

296 (B) Prescribe a return date for each such class which will provide a  
297 reasonable period of time within which the material so demanded may  
298 be assembled and made available for inspection and copying; and

299 (C) Identify the person to whom such material shall be made  
300 available.

301 (3) If such subpoena is for answers to written interrogatories, it  
302 shall:

303 (A) Set forth with specificity the written interrogatories to be  
304 answered;

305 (B) Prescribe dates by which answers to written interrogatories shall  
306 be submitted; and

307 (C) Identify the person to whom such answers shall be submitted.

308 (4) If such subpoena is for the giving of oral testimony, it shall:

309 (A) Prescribe a date, time and place at which oral testimony shall be  
310 commenced;

311 (B) Identify a person who shall conduct the examination and the  
312 custodian to whom the transcript of such examination shall be  
313 submitted;

314 (C) Specify that such attendance and testimony are necessary to  
315 conduct such investigation;

316 (D) Notify the person receiving the subpoena of the right to be

317 accompanied by an attorney and any other representative; and

318 (E) Describe the general purpose for which the subpoena is being  
319 issued and the general nature of the testimony, including the primary  
320 areas of inquiry, which will be taken pursuant to the subpoena.

321 (5) Any subpoena issued under this section that is an express  
322 demand for any product of discovery shall not be returned or  
323 returnable until twenty days after a copy has been served upon the  
324 person from whom the discovery was obtained.

325 Sec. 6. (NEW) (*Effective July 1, 2008*) Any person that makes or  
326 presents to any officer of the state, or to any department or agency of  
327 the state, any claim upon or against the state, knowing such claim to be  
328 false, fictitious or fraudulent, shall be imprisoned not more than ten  
329 years and shall be subject to a fine of not more than one hundred  
330 thousand dollars.

331 Sec. 7. Section 4-61dd of the general statutes is repealed and the  
332 following is substituted in lieu thereof (*Effective July 1, 2008*):

333 (a) Any person having knowledge of any matter involving  
334 corruption, unethical practices, violation of state laws or regulations,  
335 mismanagement, gross waste of funds, abuse of authority or danger to  
336 the public safety occurring in any state department or agency or any  
337 quasi-public agency, as defined in section 1-120, or any person having  
338 knowledge of any matter involving corruption, violation of state or  
339 federal laws or regulations, gross waste of funds, abuse of authority or  
340 danger to the public safety occurring in any large state contract, may  
341 transmit all facts and information in such person's possession  
342 concerning such matter to the Auditors of Public Accounts. The  
343 Auditors of Public Accounts shall review such matter and report their  
344 findings and any recommendations to the Attorney General and to the  
345 Chief State's Attorney. Upon receiving such a report, the Attorney  
346 General and the Chief State's Attorney shall make such investigation as  
347 [the Attorney General] each deems proper regarding such report and

348 any other information that may be reasonably derived from such  
349 report. Prior to conducting an investigation of any information that  
350 may be reasonably derived from such report, the Attorney General  
351 shall consult with the Auditors of Public Accounts concerning the  
352 relationship of such additional information to the report that has been  
353 issued pursuant to this subsection. Any such subsequent investigation  
354 deemed appropriate by the Attorney General shall only be conducted  
355 with the concurrence and assistance of the Auditors of Public  
356 Accounts. At the request of the Attorney General, the Chief State's  
357 Attorney or on their own initiative, the auditors shall assist in the  
358 investigation. The Attorney General or in the case of a violation of  
359 section 6 of this act, the Chief State's Attorney, shall have power to  
360 summon witnesses, require the production of any necessary books,  
361 papers or other documents and administer oaths to witnesses, where  
362 necessary, for the purpose of an investigation pursuant to this section.  
363 Upon the conclusion of [the] their investigation, the Attorney General  
364 and the Chief State's Attorney shall where necessary, report any  
365 findings to the Governor. [, or in matters involving criminal activity, to  
366 the Chief State's Attorney.] In addition to the exempt records provision  
367 of section 1-210 of the 2008 supplement to the general statutes, the  
368 Auditors of Public Accounts, the Chief State's Attorney and the  
369 Attorney General shall not, after receipt of any information from a  
370 person under the provisions of this section, disclose the identity of  
371 such person without such person's consent unless [the Auditors of  
372 Public Accounts or the Attorney General determines that] such  
373 disclosure is unavoidable. [, and may withhold records of such  
374 investigation, during the pendency of the investigation.] The records of  
375 any such investigation may be withheld during the pendency of the  
376 investigation. The Auditors of Public Accounts, the Chief State's  
377 Attorney or the Attorney General may disclose confidential  
378 information, including, but not limited to, the identity of any person  
379 with knowledge of matters involving corruption, unethical practices,  
380 violations of law, mismanagement, gross waste of funds, abuse of  
381 authority or danger to public safety, acquired in the course of a false

382 claims investigation to the State Contracting Standards Board when  
383 such disclosure is in furtherance of such investigation or such  
384 investigation involves matters under the jurisdiction of such board.  
385 The Auditors of Public Accounts, the Chief State's Attorney and the  
386 Attorney General shall jointly develop a protocol for coordination of  
387 their respective investigations pursuant to this section that shall give  
388 due recognition to the need to avoid the compromise of any criminal  
389 investigation or prosecution.

390 (b) (1) No state officer or employee, as defined in section 4-141, no  
391 quasi-public agency officer or employee, no officer or employee of a  
392 large state contractor and no appointing authority shall take or  
393 threaten to take any personnel action against any state or quasi-public  
394 agency employee or any employee of a large state contractor, or any  
395 action to impede or terminate a contract between a state agency and a  
396 large state contractor in retaliation for such employee's or contractor's  
397 disclosure of information to (A) an employee of the Auditors of Public  
398 Accounts, the Chief State's Attorney or the Attorney General under the  
399 provisions of subsection (a) of this section or section 2 or 6 of this act;  
400 (B) an employee of the state agency or quasi-public agency where such  
401 state officer or employee is employed; (C) an employee of a state  
402 agency pursuant to a mandated reporter statute; or (D) in the case of a  
403 large state contractor, an employee of the contracting state agency  
404 concerning information involving the large state contract.

405 (2) If a state or quasi-public agency employee or an employee of a  
406 large state contractor alleges that a personnel action has been  
407 threatened or taken in violation of subdivision (1) of this subsection,  
408 the employee may notify the Attorney General, who shall investigate  
409 pursuant to subsection (a) of this section.

410 (3) (A) Not later than thirty days after learning of the specific  
411 incident giving rise to a claim that a personnel action has been  
412 threatened or has occurred in violation of subdivision (1) of this  
413 subsection, a state or quasi-public agency employee, an employee of a

414 large state contractor or the employee's attorney may file a complaint  
415 concerning such personnel action with the Chief Human Rights  
416 Referee designated under section 46a-57. The Chief Human Rights  
417 Referee shall assign the complaint to a human rights referee appointed  
418 under section 46a-57, who shall conduct a hearing and issue a decision  
419 concerning whether the officer or employee taking or threatening to  
420 take the personnel action violated any provision of this section. If the  
421 human rights referee finds such a violation, the referee may award the  
422 aggrieved employee reinstatement to the employee's former position,  
423 back pay and reestablishment of any employee benefits for which the  
424 employee would otherwise have been eligible if such violation had not  
425 occurred, reasonable attorneys' fees, and any other damages. For the  
426 purposes of this subsection, such human rights referee shall act as an  
427 independent hearing officer. The decision of a human rights referee  
428 under this subsection may be appealed by any person who was a party  
429 at such hearing, in accordance with the provisions of section 4-183.

430 (B) The Chief Human Rights Referee shall adopt regulations, in  
431 accordance with the provisions of chapter 54, establishing the  
432 procedure for filing complaints and noticing and conducting hearings  
433 under subparagraph (A) of this subdivision.

434 (4) As an alternative to the provisions of subdivisions (2) and (3) of  
435 this subsection: (A) A state or quasi-public agency employee who  
436 alleges that a personnel action has been threatened or taken may file an  
437 appeal not later than thirty days after learning of the specific incident  
438 giving rise to such claim with the Employees' Review Board under  
439 section 5-202, or, in the case of a state or quasi-public agency employee  
440 covered by a collective bargaining contract, in accordance with the  
441 procedure provided by such contract; or (B) an employee of a large  
442 state contractor alleging that such action has been threatened or taken  
443 may, after exhausting all available administrative remedies, bring a  
444 civil action in accordance with the provisions of subsection (c) of  
445 section 31-51m.

446 (5) In any proceeding under subdivision (2), (3) or (4) of this  
447 subsection concerning a personnel action taken or threatened against  
448 any state or quasi-public agency employee or any employee of a large  
449 state contractor, which personnel action occurs not later than one year  
450 after the employee first transmits facts and information concerning a  
451 matter under subsection (a) of this section or section 2 or 6 of this act to  
452 the Auditors of Public Accounts, the Chief State's Attorney or the  
453 Attorney General, there shall be a rebuttable presumption that the  
454 personnel action is in retaliation for the action taken by the employee  
455 under subsection (a) of this section.

456 (6) If a state officer or employee, as defined in section 4-141, a quasi-  
457 public agency officer or employee, an officer or employee of a large  
458 state contractor or an appointing authority takes or threatens to take  
459 any action to impede, fail to renew or cancel a contract between a state  
460 agency and a large state contractor, or between a large state contractor  
461 and its subcontractor, in retaliation for the disclosure of information  
462 pursuant to subsection (a) of this section to any agency listed in  
463 subdivision (1) of this subsection, such affected agency, contractor or  
464 subcontractor may, not later than ninety days after learning of such  
465 action, threat or failure to renew, bring a civil action in the superior  
466 court for the judicial district of Hartford to recover damages, attorney's  
467 fees and costs.

468 (c) Any employee of a state or quasi-public agency or large state  
469 contractor, who is found to have knowingly and maliciously made  
470 false charges under subsection (a) of this section, shall be subject to  
471 disciplinary action by such employee's appointing authority up to and  
472 including dismissal. In the case of a state or quasi-public agency  
473 employee, such action shall be subject to appeal to the Employees'  
474 Review Board in accordance with section 5-202, or in the case of state  
475 or quasi-public agency employees included in collective bargaining  
476 contracts, the procedure provided by such contracts.

477 (d) On or before September first, annually, the Auditors of Public

478 Accounts shall submit to the clerk of each house of the General  
479 Assembly a report indicating the number of matters for which facts  
480 and information were transmitted to the auditors pursuant to this  
481 section during the preceding state fiscal year and the disposition of  
482 each such matter.

483 (e) Each contract between a state or quasi-public agency and a large  
484 state contractor shall provide that, if an officer, employee or  
485 appointing authority of a large state contractor takes or threatens to  
486 take any personnel action against any employee of the contractor in  
487 retaliation for such employee's disclosure of information to any  
488 employee of the contracting state or quasi-public agency or the  
489 Auditors of Public Accounts, the Chief State's Attorney or the Attorney  
490 General under the provisions of subsection (a) of this section, the  
491 contractor shall be liable for a civil penalty of not more than five  
492 thousand dollars for each offense, up to a maximum of twenty per cent  
493 of the value of the contract. Each violation shall be a separate and  
494 distinct offense and in the case of a continuing violation each calendar  
495 day's continuance of the violation shall be deemed to be a separate and  
496 distinct offense. The executive head of the state or quasi-public agency  
497 may request the Attorney General to bring a civil action in the superior  
498 court for the judicial district of Hartford to seek imposition and  
499 recovery of such civil penalty.

500 (f) Each large state contractor shall post a notice of the provisions of  
501 this section relating to large state contractors in a conspicuous place  
502 which is readily available for viewing by the employees of the  
503 contractor.

504 (g) No person who, in good faith, discloses information to the  
505 Auditors of Public Accounts, the Chief State's Attorney or the Attorney  
506 General in accordance with this section shall be liable for any civil  
507 damages resulting from such good faith disclosure.

508 (h) As used in this section:

509 (1) "Large state contract" means a contract between an entity and a  
510 state or quasi-public agency, having a value of five [million] hundred  
511 thousand dollars or more; and

512 (2) "Large state contractor" means an entity that has entered into a  
513 large state contract with a state or quasi-public agency.

514 Sec. 8. Section 4a-100 of the 2008 supplement to the general statutes  
515 is repealed and the following is substituted in lieu thereof (*Effective July*  
516 *1, 2008*):

517 (a) As used in this section: (1) "Prequalification" means  
518 prequalification issued by the Commissioner of Administrative  
519 Services to bid on a contract or perform work pursuant to a contract  
520 for the construction, reconstruction, alteration, remodeling, repair or  
521 demolition of any public building or any other public work by the state  
522 or a municipality, except a public highway or bridge project or any  
523 other construction project administered by the Department of  
524 Transportation, or to perform work under such a contract as a  
525 substantial subcontractor; (2) "subcontractor" means a person who  
526 performs work with a value in excess of twenty-five thousand dollars  
527 for a contractor pursuant to a contract for work for the state or a  
528 municipality which is estimated to cost more than five hundred  
529 thousand dollars; (3) "principals and key personnel" includes officers,  
530 directors, shareholders, members, partners and managerial employees;  
531 (4) "aggregate work capacity rating" means the maximum amount of  
532 work an applicant is capable of undertaking for any and all projects;  
533 (5) "single project limit" means the highest estimated cost of a single  
534 project that an applicant is capable of undertaking; (6) "contract"  
535 means an agreement for work for the state or a municipality that is  
536 estimated to cost more than five hundred thousand dollars and is  
537 funded, in whole or in part, by state funds; and (7) "substantial  
538 subcontractor" means a person who performs work with a value in  
539 excess of five hundred thousand dollars for a contractor pursuant to a  
540 contract for work for the state or a municipality which is estimated to

541 cost more than five hundred thousand dollars.

542 (b) (1) Any person may apply for prequalification to the Department  
543 of Administrative Services. Such application shall be made on such  
544 form as the Commissioner of Administrative Services prescribes and  
545 shall be accompanied by a nonrefundable application fee as set forth in  
546 subdivision (2) of this subsection. The application shall be signed  
547 under penalty of false statement.

548 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

549 (c) The application form shall, at a minimum, require the applicant  
550 to supply information concerning:

551 (1) The applicant's form of organization;

552 (2) The applicant's principals and key personnel and any names  
553 under which the applicant, principals or key personnel conducted  
554 business during the past five years;

555 (3) Any legal or administrative proceedings pending or concluded  
556 adversely against the applicant or any of the applicant's principals or  
557 key personnel within the past five years which relate to the  
558 procurement or performance of any public or private construction  
559 contract or any pending proceedings pursuant to section 2 or 6 of this

560 act and whether the applicant is aware of any investigation pending  
561 against the applicant or any principal or key personnel;

562 (4) The nature of any financial, personal or familial relationship  
563 between the applicant and any public or private construction project  
564 owner listed on the application as constituting construction experience;

565 (5) A statement of whether (A) the applicant has been disqualified  
566 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)  
567 the applicant is on the list distributed by the Labor Commissioner  
568 pursuant to section 31-57a, (C) the applicant is disqualified or  
569 prohibited from being awarded a contract pursuant to section 31-57b,  
570 (D) the applicant has been disqualified by another state, (E) the  
571 applicant has been disqualified by a federal agency or pursuant to  
572 federal law, (F) the applicant's registration has been suspended or  
573 revoked by the Department of Consumer Protection pursuant to  
574 section 20-341gg, (G) the applicant has been disqualified by a  
575 municipality, and (H) the matters that gave rise to any such  
576 disqualification, suspension or revocation have been eliminated or  
577 remedied; and

578 (6) Other information as the commissioner deems relevant to the  
579 determination of the applicant's qualifications and responsibilities.

580 (d) The applicant shall include a statement of financial condition  
581 prepared by a certified public accountant which includes information  
582 concerning the applicant's assets and liabilities, plant and equipment,  
583 bank and credit references, bonding company and maximum bonding  
584 capacity, and other information as the commissioner deems relevant to  
585 an evaluation of the applicant's financial capacity and responsibility.

586 (e) Information contained in the application shall be current as of  
587 the time of filing except that the statement of financial condition shall  
588 pertain to the applicant's most recently-completed fiscal year.

589 (f) The commissioner shall determine whether to prequalify an

590 applicant on the basis of the application and on relevant past  
591 performance according to procedures and criteria set forth in  
592 regulations which the commissioner shall adopt on or before October  
593 1, 2005, in accordance with chapter 54. Such criteria shall include, at a  
594 minimum, the record of the applicant's performance, including, but  
595 not limited to, written evaluations of the applicant's performance on  
596 public or private projects, the applicant's past experience on projects of  
597 various size and type, the skill, ability and integrity of the applicant  
598 and any subcontractors used by the applicant, the experience and  
599 qualifications of supervisory personnel employed by the applicant, the  
600 maximum amount of work the applicant is capable of undertaking as  
601 demonstrated by the applicant's financial condition, bonding capacity,  
602 size of past projects and present and anticipated work commitments,  
603 and any other relevant criteria that the commissioner prescribes. Such  
604 regulations shall also (1) provide that the criteria considered shall be  
605 assigned separate designated numerical values and weights and that  
606 the applicant shall be assigned an overall numerical rating on the basis  
607 of all criteria, and (2) establish prequalification classifications,  
608 aggregate work capacity ratings and single project limits. Such  
609 prequalification classifications shall be used to establish the types of  
610 work a contractor or substantial subcontractor is qualified to perform  
611 and the aggregate work capacity ratings shall be used to establish the  
612 maximum amount of work a contractor or substantial subcontractor is  
613 capable of undertaking.

614 (g) (1) The applicant shall indicate the prequalification  
615 classifications, aggregate work capacity ratings and single project  
616 limits that are sought. The commissioner may issue a certificate of  
617 prequalification to any applicant who meets the requirements of this  
618 section. Such certificate shall be effective for one year from the date  
619 issued and shall indicate the contractor's or substantial subcontractor's  
620 prequalification classifications, aggregate work capacity ratings and  
621 single project limits. The commissioner may cause the initial certificate  
622 of prequalification to be effective for a period not to exceed two years  
623 and may require the applicant to remit payment of the application fee,

624 as set forth in subsection (b) of this section, for the first twelve months  
625 of certification as well as a prorated application fee, as described in  
626 subdivision (3) of this subsection, for any additional period of  
627 certification beyond the first twelve months.

628 (2) A prequalified contractor or substantial subcontractor may apply  
629 at any time for additional prequalification classifications, aggregate  
630 work capacity ratings or single project limits by submitting the  
631 applicable increase in fee, a completed update statement and other  
632 information the commissioner requires.

633 (3) The commissioner may renew a prequalification certificate upon  
634 receipt of a completed update statement, any other material the  
635 commissioner requires and a nonrefundable fee in an amount not less  
636 than one-half of the application fee for the applicable aggregate work  
637 capacity rating as set forth in subsection (b) of this section.

638 (h) Not later than sixty days after receiving a completed application,  
639 the commissioner shall mail or send by electronic mail a notice to the  
640 applicant concerning the commissioner's preliminary determination  
641 regarding the conditions of the prequalification certification, a denial  
642 of certification, a reduction in the level of certification sought or  
643 nonrenewal of certification. Any applicant aggrieved by the  
644 commissioner's preliminary determination may request copies of the  
645 information upon which the commissioner relied in making the  
646 preliminary determination, provided such request is made not later  
647 than ten days after the date the notice was mailed or sent by electronic  
648 mail to the applicant. Not later than twenty days after the date the  
649 notice was mailed or sent by electronic mail, the applicant may submit  
650 additional information to the commissioner with a request for  
651 reconsideration. The commissioner shall issue a final determination  
652 regarding the application not later than ninety days after the date the  
653 commissioner mailed or sent by electronic mail the notice of the  
654 preliminary determination, which ninety-day period may be extended  
655 for an additional period not to exceed ninety days if (1) the

656 commissioner gives written notice to the applicant that the  
657 commissioner requires additional time, and (2) such notice is mailed or  
658 sent by electronic mail during the initial ninety-day period.

659 (i) The commissioner may not issue or renew a prequalification  
660 certificate to any contractor or substantial subcontractor (1) who is  
661 disqualified pursuant to section 31-57c or 31-57d, or (2) who has a  
662 principal or key personnel who, within the past five years, has a  
663 conviction or has entered a plea of guilty or nolo contendere for or has  
664 admitted to commission of an act or omission that reasonably could  
665 have resulted in disqualification pursuant to any provision of  
666 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or  
667 subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as  
668 determined by the commissioner.

669 (j) The commissioner may revoke a contractor's or substantial  
670 subcontractor's prequalification or reduce the contractor's or  
671 substantial subcontractor's prequalification classification or aggregate  
672 work capacity ratings, after an opportunity for a hearing, if the  
673 commissioner receives additional information that supports such  
674 revocation or reduction. During the course of such hearing process, the  
675 commissioner may suspend a contractor's prequalification certificate if  
676 the commissioner determines that there is probable cause to believe  
677 that such contractor engaged in conduct that significantly undermines  
678 the skill, ability or integrity of such contractor. Any such suspension  
679 shall not exceed a period of three months and shall be accompanied by  
680 a written decision of the commissioner that sets forth the reasons for  
681 and duration of such suspension. The commissioner shall send  
682 notification of any such suspension to such contractor by certified mail,  
683 return receipt requested. Such contractor may file a response, in  
684 writing, not later than thirty days after receipt of such notice. The  
685 commissioner shall review any such response submitted by a  
686 contractor within such thirty-day period.

687 (k) (1) Any substantial evidence of fraud in obtaining or

688 maintaining prequalification or any materially false statement in the  
689 application, update statement or update bid statement may, in the  
690 discretion of the awarding authority, result in termination of any  
691 contract awarded the applicant by the awarding authority. The  
692 awarding authority shall provide written notice to the commissioner of  
693 such false statement not later than thirty days after discovering such  
694 false statement. The commissioner shall provide written notice of such  
695 false statement to the Commissioner of Public Works, the  
696 Commissioner of Consumer Protection and the President of The  
697 University of Connecticut not later than thirty days after discovering  
698 such false statement or receiving such notice.

699 (2) The commissioner shall deny or revoke the prequalification of  
700 any person if the commissioner finds that the person has included any  
701 materially false statement in such application, update statement or  
702 update bid statement, has been convicted of a crime related to the  
703 procurement or performance of any public or private construction  
704 contract or, within the past five years, has otherwise engaged in fraud  
705 in obtaining or maintaining prequalification. Any revocation made  
706 pursuant to this subsection shall be made only after an opportunity for  
707 a hearing. Any person whose prequalification has been revoked  
708 pursuant to this subsection shall be disqualified for a period of two  
709 years after which the person may reapply for prequalification, except  
710 that a person whose prequalification has been revoked on the basis of  
711 conviction of a crime or engaging in fraud shall be disqualified for a  
712 period of five years after which the person may reapply for  
713 prequalification. The commissioner shall not prequalify a person  
714 whose prequalification has been revoked pursuant to this subdivision  
715 until the expiration of said two-year, five-year, or other applicable  
716 disqualification period and the commissioner is satisfied that the  
717 matters that gave rise to the revocation have been eliminated or  
718 remedied.

719 (l) The commissioner shall provide written notice of any revocation,  
720 disqualification, reduction in classification or capacity rating or

721 reinstated prequalification to the Commissioner of Public Works, the  
722 Commissioner of Consumer Protection and the President of The  
723 University of Connecticut not later than thirty days after any final  
724 determination.

725 (m) The provisions of this section and section 4a-101 of the 2008  
726 supplement to the general statutes shall not apply to subcontractors  
727 who are not substantial subcontractors.

728 (n) The commissioner shall establish an update statement for use by  
729 bidders and substantial subcontractors for purposes of renewing or  
730 upgrading a prequalification certificate and an update bid statement  
731 for purposes of submitting a bid pursuant to section 4b-91 of the 2008  
732 supplement to the general statutes.

733 (o) Any applicant aggrieved by the commissioner's final  
734 determination concerning a preliminary determination, a denial of  
735 certification, a reduction in prequalification classification or aggregate  
736 work capacity rating or a revocation or nonrenewal of certification  
737 may appeal to the Superior Court in accordance with section 4-183.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	New section
Sec. 3	<i>July 1, 2008</i>	New section
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>July 1, 2008</i>	New section
Sec. 6	<i>July 1, 2008</i>	New section
Sec. 7	<i>July 1, 2008</i>	4-61dd
Sec. 8	<i>July 1, 2008</i>	4a-100

**Statement of Purpose:**

To implement the Governor's budget recommendations.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*